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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,982	03/23/2005	Diane Joyce Burt	102792-250(11032P3)	4996
27380 7590 08/27/2008 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER DOUYON, LORNA M				
ART UNIT		PAPER NUMBER		
1796				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/525,982

**Applicant(s)**

BURT ET AL.

**Examiner**

Lorna M. Douyon

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4, 5, 7, 8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7, 8 and 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

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1. This action is responsive to the amendment filed on June 2, 2008.
2. Claims 1, 4-5, 7-8, 10-20 are pending.
3. The rejection of claims 1, 3-5, 7-8, 13-18 under 35 U.S.C. 103(a) as being unpatentable over DeNome et al (US 2002/0142931) is withdrawn in view of Applicants' amendment.
4. The rejection of claims 9-12, 19 and 20 under 35 U.S.C. 103(a) as being unpatentable over DeNome '931 as applied to the above claims, and further in view of Bettiol et al. (US Patent No. 5,958,858) is withdrawn in view of Applicants' amendment.
5. The rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Dickler et al. (US Patent No. 6,037,319) is withdrawn in view of Applicants' amendment.
6. Claims **16-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16-19 depend from cancelled claim 3. Presumably, these claims depend from claim 1.

Claim 20, being dependent upon claim 19, is rejected as well.

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7. Claims 1, 4-5, 7-8, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denome et al. (US 2004/0063601), hereinafter "Denome '601".

Denome '601 teaches a dosable liquid gel anhydrous organic solvent composition, suitable for dishwashing, which comprises sodium tripolyphosphate hexahydrate and water-soluble dyes (see paragraph [0002] and [0010] on page 1). The anhydrous organic solvent composition comprises an organic solvent composition (wherein "solvent composition" is understood to comprise the organic solvent system and optional additional active ingredients and diluents) and one or more automatic dishwashing detergent compositions (see paragraph [0038] on pages 3-4). The organic solvent is present at any suitable amount, and is typically present at levels from about 10% to about 80% by weight of the total composition (see paragraph [0039] on page 4). Examples of suitable solvents include (i) alcohols; (ii) amines such as alkanolamines; (iii) esters; (iv) glycol ethers; (v) glycols; and mixtures thereof (see paragraph [0043] on page 4). The organic solvent system is preferably selected from (i) glycol ethers such as ethylene glycol monomethyl ether, propylene glycol butyl ether, among a few; and (ii) glycols; and mixtures thereof (see paragraph [0044] on page 4). The effective amount of water, preferably deionized water, in the anhydrous organic solvent composition is determined by the amount of hydrated builder species to be generated, generally from about 5 to about 10% (underlinings supplied, see paragraphs [0058-0059] on page 5). The composition also comprises one or more detergent active components such as colorants, surfactants, alkalinity sources, hydrotropes, and other organic solvents like methanol, ethanol propanol and isopropanol (see paragraphs [0075]-[0077] on pages 6-

7). The surfactants include anionic, cationic, nonionic, amphoteric, ampholytic, zwitterionic surfactants, and mixtures thereof (see paragraph [0098] on page 8). In compositions and methods for use in cleaning soiled tableware prior to dishwashing, the detergent surfactant is preferably foamable in direct application but low foaming in automatic dishwashing use (see paragraph [0098] on page 8, which automatic dishwashing use is understood to read on claim 15. Suitable surfactants include anionic surfactants like alkyl sulfates and alkyl ether sulfates and nonionic surfactants such as nonionic alkoxyated surfactants and block polyoxyethylene-polyoxypropylene polymeric compounds (see paragraph [0099] on page 8). The composition also demonstrate improved compatibility with partially hydrolysed, water-soluble PVA pouch materials of known construction and type (see paragraphs [0133]-[0134] on page 10). The composition can be dispensed from any suitable device such as a single or multi-compartment water-soluble pouch (see paragraph [0135] on pages 10-11). Denome '601, however, fails to specifically disclose at least 70 wt% of the solvent, and the combination of propylene glycol monobutyl ether with propylene glycol methyl ether, the surfactant being ethoxy/propoxy block copolymer in conjunction with ethoxylated fatty alcohol, and the flash point of the composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the prior art's range (i.e. 70 to about 80 wt% solvent) which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result

effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima facie case of obviousness. See *In re Boesch*, 627 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578,16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454,456,105 USPQ 233,235 (CCPA 1955).

With respect to propylene glycol methyl ether, Denome '601 teaches glycol ethers in paragraph 0044 on page 4, one of which is ethylene glycol monomethyl ether. Even though Denome '601 does not explicitly disclose propylene glycol monomethyl ether, it would have been obvious to one ordinary skill in the art to have substituted the ethylene glycol monomethyl ether with its homologues like propylene glycol monomethyl ether because characteristics normally possessed by members of homologous series are principally the same, and vary but gradually from member to member; chemists knowing properties of one member of series would in general know what to expect in adjacent member, see *In re Henze*, 85 USPQ 261.

With respect to the combination of surfactants, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected, as surfactants, nonionic alkoxyated surfactants (especially ethoxylates derived from C<sub>6</sub>-C<sub>18</sub> primary alcohols), and ethoxylated-propoxylated alcohols or block polyoxyethylene-polyoxypropylene polymeric compounds such as PLURONIC® because DeNome teaches in paragraph 0098 on page 8 that the composition comprises one or more detergent surfactants or mixtures of surfactants and the above two are disclosed as suitable surfactants in paragraph 0099 on page 8.

With respect to the flash point of the composition, it would have been obvious to one ordinary skill in the art at the time the invention was made to reasonably expect the composition of DeNome '601 to have a flash point within those recited because similar ingredients with overlapping proportions have been utilized.

8. Claims 10-12, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeNome '601 as applied to the above claims, and further in view of Bettiol et al. (US Patent No. 5,958,858), hereinafter "Bettiol".

DeNome '601 teaches the features as described above. DeNome '601, however, fails to disclose alkoxylated quaternary ammonium surfactant, and also alkylpolyglycoside surfactant.

It is known from Bettiol to incorporate alkoxylated quaternary ammonium surfactant compounds (see col. 13, lines 34-38) and alkylpolyglycoside nonionic surfactants (see col. 11, line 50+) into a similar liquid dishwashing composition (see col. 43, lines 49-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate alkoxylated quaternary ammonium surfactant and alkylpolyglycoside surfactant into the composition of DeNome '601 because DeNome '601 specifically desires cationic surfactants and nonionic surfactants into his composition and Bettiol teaches such suitable surfactants in an analogous art.

9. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denome '601 as applied to the above claims, and further in view of DeNome '931.

Denome '601 teaches the features as discussed above. Denome '601, however, fails to disclose a thermoformed or injection molded water soluble polymer.

DeNome '931 teaches the features as described above. In particular, DeNome '931 teaches water soluble pouches or sachets which can be made in known manner, for example, blow-, injection- or rotary moulding, and polyvinyl alcohols are preferred polymers for use as pouches (see paragraphs 0069 and 0072 on page 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the water-soluble PVA pouch of Denome '601 by injection moulding because Denome '601 desires water-soluble PVA pouch materials of known construction and type as disclosed in paragraph [0134], and DeNome '931 provides such water-soluble pouches prepared by known methods such as injection moulding.

### ***Response to Arguments***

10. Applicants' arguments filed June 2, 2008 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon DeNome '601, Applicants argue that the present claims are believed to be allowable over the prior art of record in view of the applicant's incorporation of the subject matter of prior claim 9 and part of



claim 11 into claim 1, and further in view of the fact that the Examiner had not lodged a rejection of claim 2 in view of the combined references.

The Examiner respectfully disagrees with the above argument because it is clear from the previous office action and which is repeated above that DeNome '601 teaches in paragraphs [0058-0059] on page 5 that the effective amount of water, preferably deionized water, in the anhydrous organic solvent composition is generally from about 5 to about 10%, which overlaps those recited, i.e. in excess of 7.5 wt% to no more than 12.5 wt%. Even though claim 9 and part of claim 11 are incorporated into claim 1, and even though DeNome '601 does not explicitly disclose alkylpolyglycoside surfactants, please note that the surfactants (a)(i), which comprises the alkylpolyglycoside surfactants, in the present claim 1 is one of two choices of surfactant mixtures, and is therefore not required. As already discussed in paragraph 7 above, DeNome '601 teaches the surfactants (a)(ii), i.e., nonionic alkoxyated surfactants (especially ethoxylates derived from C<sub>6</sub>-C<sub>18</sub> primary alcohols), and ethoxylated-propoxylated alcohols or block polyoxyethylene-polyoxypropylene polymeric compounds such as PLURONIC® as disclosed in paragraphs 0098- 0099 on page 8.

With respect to the rejection of claims 9-12, 19 and 20 based upon DeNome '601 in view of Bettiol, Applicants argue that the present claims are believed to be allowable over the prior art of record in view of the applicant's incorporation of the subject matter of prior claim 9 and part of claim 11 into claim 1, and further in view of the fact that the Examiner had not lodged a rejection of claim 2 in view of the combined DeNome '601 and Bettiol references.

The above response to Denome '601 applies here as well. Hence, the combination of DeNome '601 and Bettiol is proper and is maintained.

With respect to the rejection of claims 13-14 based upon DeNome '601 in view of DeNome '931, Applicants argue that the present claims are believed to be allowable over the prior art of record in view of the applicant's incorporation of the subject matter of both prior claims 2 and 9, now cancelled.

The above response to Denome '601 applies here as well. Hence, the combination of DeNome '601 and DeNome '931 is proper and is maintained.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

